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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,023	09/29/2000	Donald E. Smith	99-885	1627
32127	7590	12/02/2004	EXAMINER	
VERIZON CORPORATE SERVICES GROUP INC. C/O CHRISTIAN R. ANDERSEN 600 HIDDEN RIDGE DRIVE MAILCODE HQEO3H14 IRVING, TX 75038			NGUYEN, BRIAN D	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**Application No. **09/677,023**Applicant(s)  
**SMITH ET AL.**Examiner  
**Brian D Nguyen**Art Unit  
**2661**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on the amendment filed 8/6/04.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 and 9-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 10,11 and 17 is/are allowed.  
6) ☒ Claim(s) 18-21 is/are rejected.  
7) ☐ Claim(s) 1-7,9 and 12-16 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 29 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claims 1-7, 9, 12-16, and 21 are objected to because of the following informalities:

Appropriate correction is required.

Claim 1, line 15, it is suggested to change “varying a number of active sources” to ---a varying number of active sources--- (see line 18 of claim 10).

Claim 2, line 4, it is suggested to delete “plurality of”.

Claim 12, line 9, “N” is not defined. It is suggested to insert ---where N is an integer greater than one---.

Claim 21, line 3, it is suggested to insert ---the--- before “determining”.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

Art Unit: 2661

reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Galand et al (6,647,008).

Regarding claim 18, Galand discloses a method comprising: determining a load carried by each link in a networks the network including multiple links connecting multiple routers (see figures 5 and 10); computing a QoS parameter value for each link based on the load carried by the link (see col. 10, lines 34-67) and taking into account changes in a number of active sources feeding the network (see col. 6, lines 43-58 where sources (nodes) are added or dropped); computing an end-to-end QoS parameter value using the QoS parameter values for each link (see col. 11, lines 18-19).

Regarding claim 19, Galand discloses the load carried by each link in the network includes traffic of one or more service types, and wherein the one or more service types include one or more voice over IP types (see col. 2, lines 1-10).

Regarding claim 20, Galand discloses the QoS parameter for the network is one of packet loss, packet delay, and packet delay jitter (see col. 10, lines 51-67).

Regarding claim 21, Garland discloses estimating an amount of traffic carried at a gateway to the network; and wherein determining the load carried by each link in a network is based on the estimated amount of traffic carried at the gateway (see col. 7, lines 41-55).

***Allowable Subject Matter***

4. Claims 10-11 and 17 are allowed.

Art Unit: 2661

5. Claims 1-7, 9 and 12-16 would be allowable if rewritten or amended to overcome the objection(s) set forth in this Office action.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D Nguyen whose telephone number is (571) 272-3084. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on (571) 272-3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2661

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



10/20/04

**BRIAN NGUYEN**  
**PRIMARY EXAMINER**